

Maestro does and does not show.

4. Rejection under 35 USC 103

Further, on the foregoing point, about what an end cap is: What applicant calls an end cap, and that which some prior art patents call end plate, Maestro calls an end wall. Maestro is obscure in describing how he closes of the end of his string of chambers. He focuses on his transverse panel 44 and its sediment retaining function, when at the downstream end. Col. 6 lines 26-32. He is silent on the upstream end closure. However, in connection with Fig. 7, he discloses end wall 55 which functions like an end cap. Col. 7, line 20+. Thus, one must assume he has end caps which are walls like 55 or 44, since somehow he would prevent intrusion of the surrounding gravel or other medium at his upstream end.

The portal 38 of Maestro is not a buttress which is claimed by applicant. The Maestro portal is a recess in the wall of the chamber. See Fig. 5. The buttress claimed by applicant projects outwardly from the sidewall of the end cap.

Thus Maestro does not teach anything about what to do with end caps, what shapes end caps should have other than that they should be other than flat, and how connections should be made with end caps other than by means of a straight hole.

The rejection refers to wall 16 as part of a buttress which includes portal 38. (Applicant thinks maybe examiner meant to refer to recess 39.) Element 16 is a peak portion of the corrugation of the sidewall 14 of the chamber. The element 38/39 does not run down to the base flange of the chamber, and there is no suggestion to do so.

Maestro does show a saddle for a pipe, but does not show a buttress having a nearly vertical stepped face where the step forms the saddle. Note that the portion under Maestro's saddle is more undercut, by the two valleys versus the one peak which the rejection cites as a surface of the buttress. Maestro does not show an essentially planar facet surface on a buttress within the meaning of applicants' claims. There is no feature which is distinct from the wall of the chamber which can be fairly characterized as a buttress. At best, Maestro shows a saddle in the wall of the chamber. Maestro does not show a saddle with a sub-saddle.

Respectfully, examiner is using hindsight to even find any other elements of applicants' invention in Maestro. And there is no teaching from Maestro of how to differently make a portal than he shows, nor any suggestion of need to change in any direction.

Maestro teaches about what to do with a chamber. Maestro does not teach anything about end cap. In fact, Maestro teaches away from having end caps with portals of any kind, since he teaches to enter the sidewall 14 of the chamber. See Col. 7, line 20+. Thus, he teaches away from having any of his features on an end cap.

Maestro in combination with Gray is cited as rendering the invention obvious. The

rejection cites Gray Col. 5 text which refers to Fig. 9, which shows a portal in the sidewall of a chamber. That is not teaching of what to do with an end cap, nor is it a buttress. Gray shows a flat end plate 40 as an element in distinction to a chamber. Gray only teaches plain holes through the flat end plate. The cited Col. 5 text does not seem to teach what the rejection of claim 12 suggests, but applicants admit that embossing for cutting and tearing is old, and their claim 30 (which replaces claim 12) should be allowed as a preferred embodiment which obtains novelty by virtue of its dependency.

The rejection further cites Nichols '488 in combination with Maestro. Applicant assumes the examiner meant to refer to the opening at the end of the chamber, formed by cutout 42 of end plate 40 and subarch 36, since element 38 is the arch shape end of a chamber (and thus not a port for a pipe) and element 26 is the sidewall of a chamber. Again, Nichols teaches away from the invention, toward a plain hole in a planar end plate. And there is no suggestion of need to combine any teachings of Maestro/Gray with Nichols. And even if they were combined, they would not result in an end cap for a chamber, as claimed, but for some sort of chamber having portals with a plain end cap.

If examiner maintains the 35 USC 103 rejection, he is respectfully requested to state where he finds the suggestion or motivation to combine the art of the patents which were cited.

And if the examiner takes the position that a teaching about a chamber and portals is a teaching about how to make an end cap, he is requested to state his reasoning, particularly in view of the prior art teaching to have a flat end plate in combination with Gray and Maestro chambers having side ports.

Claims 24, 25 and 33 replace claims 7, 8 and 15 which were objected to, and thus should be allowable. (Applicant does not have any particular art to cite, but believes that attaching splash plates to flat end plates is probably known. Claim 33 should be allowable at least as a preferred embodiment and in combination with the other elements of the claim.)

Claim 32 should be allowable, since no cited art shows a buttress with an interior stop, and by virtue of the novelty from dependency.

Claim 35, to an end cap in combination with a chamber, is new. It should be allowable for the same reasons as argued above.

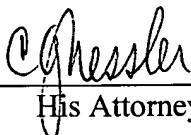
Applicants submit that the other claims as redrafted should be allowable, for reasons given above, since they embrace a non-obvious invention, namely one comprising an end cap which has a bulging dome end and buttresses which project from the surface thereof. Applicants respectfully request withdrawal of the rejection and allowance of their claims as amended.

5. Applicants belatedly inform examiner about related applications, namely, copending and commonly assigned application serial No. 10/402,414 of Krueger et al. and parent

09/849,768. Each shows a domed end cap for a storm chamber. Applicants do not believe the related applications have any bearing on patentability here, but regret the delay in disclosure.

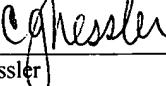
6. Applicants submit formal drawings by separate document.

Respectfully submitted,
JAMES BURNES ET AL.

By 
His Attorney

Charles G. Nessler
Box H
Chester, CT 06412
(860) 526 9149 Fax (860) 526 9149 email: cn@cessler.com

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents, Box 1450, Alexandria VA 22313 on January 7, 2005


C. G. Nessler